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12 USA GYMNASTICS and ROBERT COLAROSSI

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

17 || JANE JD DOE, an individual.

CASE NO. 8:18-cv-1136-JLS (KESx)

18 Plaintiff,
v.

19 DOE 1, an individual; DOE 2, an
20 Indiana Business entity of form
21 unknown; DOE 3, an individual;
DOE 4, an individual; DOE 5, an
individual; and DOEs 6 through 500

Defendants.

**NOTICE OF MOTION AND MOTION
TO DISMISS PLAINTIFF'S FIRST
AMENDED COMPLAINT
[FED.R.CIV.P. 12(b)(6)]**

Date: 11/16/18
Time: 2:30 p.m.
Courtroom: 10A
Judge: Hon. Josephine L. Staton

TO: ALL PARTIES AND TO THEIR COUNSEL, OF RECORD:

25 PLEASE TAKE NOTICE that on November 16, 2018 at 2:30 p.m. or at such
26 other time as the matter may be heard before the Honorable Josephine L. Staton,
27 Courtroom 10A, tenth floor of the Ronald Reagan Federal Building and United States
28 Courthouse, located at 411 W. Fourth St., Santa Ana, California, defendants, USA

DEFENDANTS' NOTICE OF MOTION
TO DISMISS PER FRCP 12(b)(6)

1 GYMNASTICS (“USAG”) and ROBERT COLAROSSI will and hereby do move to
2 dismiss plaintiff’s First Amended Complaint on the following grounds:

3 1. Pursuant to Federal Rule of Civil Procedure 12(b)(6), defendants move to
4 dismiss the Fourth Cause of Action of the First Amended Complaint because plaintiff
5 cannot state a cause of action against these defendants for Sexual Harassment.

6 2. Pursuant to Federal Rule of Civil Procedure 12(b)(6), defendants move to
7 dismiss the Fifth Cause of Action of the First Amended Complaint because plaintiff
8 cannot state a cause of action against these defendants for Unfair Business Practices.

9 3. Pursuant to Federal Rule of Civil Procedure 12(b)(6), defendants move to
10 dismiss the Sixth Cause of Action of the First Amended Complaint because plaintiff
11 did state a cause of action against these defendants for Intentional Infliction of
12 Emotional Distress.

13 4. Pursuant to Federal Rule of Civil Procedure 12(b)(6), defendants move to
14 dismiss the Seventh Cause of Action of the First Amended Complaint because plaintiff
15 cannot state a cause of action against these defendants for Constructive
16 Fraud.

17 5. Pursuant to Federal Rule of Civil Procedure 12(b)(6), defendants move to
18 dismiss the Ninth Cause of Action of the Complaint because plaintiff cannot state a
19 cause of action against these defendants for Negligent Supervision - Negligence Per
20 Se.

21 6. Pursuant to Federal Rule of Civil Procedure 12(b)(6), defendants move to
22 dismiss plaintiff’s prayer for punitive damages should they be successful in this
23 motion to dismiss, and the prayer for declaratory and injunctive relief.

24 This motion is made following the conference of counsel pursuant to L.R. 7-3
25 which took place on July 12, 2018.

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1 This motion is based on this Notice of Motion and Motion, defendants'
2 Memorandum of Points and Authorities in Support of this Motion filed herewith, and
3 all documents and pleadings on file with the Court and on such additional and further
4 matter as may be presented to the Court at or prior to the hearing on this matter.

5 DATED this 31st day of August, 2018.

WHITE & AMUNDSON APC

By _____
Daniel M. White, Esq.
Rebecca D. Lack, Esq.
Attorneys for Defendants, USA
GYMNASISTICS and ROBERT
COLAROSSI

CERTIFICATE OF SERVICE

Case Name: *Jane JD Doe v. Doe 1, et al.*

Case No.: 8:18-cv-1136 JLS (KESx)

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is White & Amundson, 402 W. Broadway, Suite 1140, San Diego, CA 92101.

Pursuant to FRCP 5, I certify that I am a member of White & Amundson, APC and that on the date below, I caused to be served the within document(s):

**NOTICE OF MOTION AND MOTION TO DISMISS PLAINTIFF'S
FIRST AMENDED COMPLAINT [FED.R.CIV.P. 12(b)(6)]**

ELECTRONIC - As addressed to all parties appearing on the Court's ECF service list in this action via the Southern District of California's Court's CM/ECF system, and shall be available for viewing and downloading from the ECF system.

FEDERAL - I certify under penalty of perjury under the law of the United States of America that the foregoing is true and correct.

Executed on August 31, 2018, at San Diego, California.

/s/ Bernadette Gonzales
Bernadette Gonzales

1 SERVICE LIST
2

3 Case Name: **Jane JD Doe v. Dr. Larry Nassar, et al.**

4 Case No.: **8:18-cv-1136 JLS (KESx)**

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